

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE PUBLIC UTILITIES COMMISSION

In the Matter of the Request for Service in  
Qwest's Tofte Exchange.

PREHEARING ORDER

The above-entitled matter came on for a Prehearing Conference, pursuant to notice, on February 4, 2004, at the Large Hearing Room of the Public Utilities Commission in St. Paul, Minnesota, before Richard C. Luis, Administrative Law Judge (ALJ) for the Office of Administrative Hearings.

Appearances: Joan Peterson, Attorney at Law, Qwest Corporation, 200 South Fifth Street, Room 395, Minneapolis, Minnesota 55402, appeared on behalf of Qwest. Ginny Zeller, Assistant Attorney General, 445 Minnesota Street, 1400 NCL Tower, St. Paul, Minnesota 55101, appeared on behalf of the Minnesota Department of Commerce (DOC) and Ronald M. Giteck, Assistant Attorney General, 445 Minnesota Street, 900 NCL Tower, St. Paul, Minnesota 55101, appeared on behalf of the Office of Attorney General-Residential Utilities Division (OAG).

Discussion was held among the participants in the Prehearing Conference, and having considered all the arguments and comments, as well as written submissions filed by the participants, the Administrative Law Judge makes the following Prehearing Order:

INTERVENORS

1. Based either on their Petitions to Intervene or on their statutory interest in the proceeding, the following are each made a party to this case as an Intervenor: Department of Commerce (DOC) and Office of Attorney General-Residential Utilities Division (OAG).

2. The final date for intervention is June 8, 2004.

Any person allowed to intervene in this proceeding after the date of this Order shall be bound by the terms of this Order.

SCHEDULE

The following Schedule is adopted and, except when modified by Order of the Administrative Law Judge, shall govern this proceeding:

3. Qwest files direct testimony – April 23, 2004

4. Intervention deadline – June 8, 2004.
5. Intervenors file direct testimony – June 15, 2004.
6. Rebuttal testimony filed – July 2, 2004.
7. Surrebuttal testimony filed – July 16, 2004.
8. Evidentiary hearings -- July 26-28, 2004 – 9:30 a.m. at the Public Utilities Commission, 121 Seventh Place East, Room 350, St. Paul, MN.

9. The parties shall submit Briefs and are encouraged to submit proposed Findings of Fact and Conclusions, all appropriately referenced to the official record, at such times after the close of the evidentiary hearings as shall be directed by the Administrative Law Judge.

#### PROCEDURE

10. The Rules of the Office of Administrative Hearings shall govern the conduct of the hearings herein.

11. The hearing shall be conducted in accordance with the schedule herein established unless otherwise determined by the Administrative Law Judge.

#### FILING OF DOCUMENTS

12. All direct testimony sponsored by all parties shall be filed in writing with the Administrative Law Judge and shall be received by the parties in accordance with the schedule herein. All prefiled testimony shall be in question and answer format.

13. All documents filed, including prefiled testimony, but excluding information requests and responses, shall be filed as follows:

a. Prior to the issuance of the Report of the Administrative Law Judge, the original document and one copy shall be delivered or mailed to:

Richard C. Luis  
Administrative Law Judge  
Office of Administrative Hearings  
100 Washington Square, Suite 1700  
100 Washington Avenue South  
Minneapolis, Minnesota 55401-2138

b. Fifteen (15) copies shall be filed with the Commission Secretary for distribution among Commissioners and Commission staff. The copies shall be delivered or mailed to:

Burl W. Haar

Executive Secretary  
Minnesota Public Utilities Commission  
350 Metro Square  
121 Seventh Place East  
St. Paul, Minnesota 55101

c. Except as hereinafter provided, one (1) copy shall be served personally or by mail on the attorney of record for each party, or, if there is no attorney, upon the party.

d. One (1) copy of each such document shall be served personally or by mail on John Grinager (Case Manager) and five (5) copies shall be served personally or by mail on Linda Chavez as follows:

Linda Chavez  
Minnesota Department of Public Service  
200 Metro Square  
121 Seventh Place East  
St. Paul, Minnesota 55101

e. One (1) copy of each of such document shall be served personally or by mail on:

Curtis Nelson  
Office of the Attorney General  
445 Minnesota Street  
900 NCL Tower  
St. Paul, Minnesota 55101

Ronald M. Giteck  
Assistant Attorney General  
445 Minnesota Street  
900 NCL Tower  
St. Paul, Minnesota 55101

f. A service list is attached hereto as Exhibit A and made a part hereof. Service of documents in the numbers required by this Order shall be made according to such service list.

g. Following the Report of the Administrative Law Judge, original documents shall be filed with the Secretary of the Commission. A copy may be filed with the Office of Administrative Hearings.

h. Pursuant to Minnesota Rules, part 1400.5100, subp. 9, the effective date of filing shall be the date the document is mailed or delivered to the Administrative Law Judge or to the Secretary of the Commission.

i. Proof of service shall be filed with each filed document.

14. One copy of any document or information filed with or supplied to the Public Utilities Commission or the Commission staff relative to any issue in these proceedings which is not otherwise served on the parties or their attorneys pursuant to Paragraph 13 hereof shall be served on the attorney of record for each party, or, if there is no attorney, upon the party.

#### DISCOVERY

15. All requests for information shall be made in writing to the person from whom the information is sought with a copy of the request mailed to all parties of record. No such request shall be provided to the Administrative Law Judge. The party responding to the information request shall provide the information requested to the requesting party within eight (8) days from the date of the request. The information need not be supplied as a matter of course to all other parties. In the event the information cannot be supplied within such eight-day period, the responding party shall notify the requesting party, in writing, within four days of the request to work out a schedule of compliance with the requesting party. All disputes concerning the reasonableness of discovery requests and the timing and sufficiency of responses shall be resolved by the Administrative Law Judge upon Motion of a party.

16. Further discovery may be had herein in accordance with Minnesota Rules, parts 1400.6700 - 1400-6900.

#### PREFILED TESTIMONY

17. Prefiled direct, rebuttal and surrebuttal testimony shall not be bound into the record but shall be received as an exhibit to the record. Prefiled testimony not offered into the record shall be considered withdrawn and the witness may not be cross-examined concerning the withdrawn testimony. Except for cause shown, all revisions or corrections to any prefiled testimony shall be made in writing and served upon the Administrative Law Judge and the parties no later than five days prior to commencement of the evidentiary hearing.

#### ORDER OF TESTIMONY

18. Testimony in the evidentiary hearing shall be offered in the following order: Qwest, OAG, DOC and any other Intervenors in the order of their intervention. Cross-

examination of the witnesses shall be conducted by the parties in the same order; provided, however, that parties shall not cross-examine their own witnesses. Except for cause shown, any new affirmative matter that is not offered in reply to another party's direct case shall not be offered in rebuttal or surrebuttal testimony and exhibits.

19. No later than five days prior to the commencement of the evidentiary hearings herein, each party shall submit to the Administrative Law Judge, the Commission and the other parties, a list of that party's witnesses and the order in which those witnesses will appear, indicating, if necessary, any day certain for testimony known to the party calling the witness. The final order of testimony will be as established by the Administrative Law Judge.

### EXAMINATION OF WITNESSES

20. Parties shall examine and cross-examine witnesses through their attorneys, if they are represented by counsel. Any party not represented by counsel may examine and cross-examine each witness through any one representative chosen by the party.

21. Except for cause shown, objections by any party relating to the qualifications of a witness or the admissibility of any portion of a witness's prefiled testimony shall be considered waived unless the objecting party states in writing its objection with particularity to the Administrative Law Judge and serves a copy of such objections on the Commission and all other parties no later than five days prior to commencement of the evidentiary hearings. If an objection is made by a party, the party shall be permitted to lay further foundation for the objection through cross-examination of the witness. Any prefiled testimony which is not objected to shall be admitted during the evidentiary hearings without the necessity of laying a foundation for the testimony.

### MISCELLANEOUS

22. A final prehearing conference may be held on a date determined by the Administrative Law Judge. The purpose of this prehearing conference would be to mark exhibits to be offered at the hearing, including exhibits to be offered upon cross-examination, and portions of depositions to be introduced into the record. In the unusual case where the attorney for a party believes that an exhibit should not be disclosed to the opposing parties prior to oral examination, he or she may present a copy of the exhibit to the Administrative Law Judge with a brief memorandum of explanation in support and circulate copies of the exhibit to the other parties at the time of cross-examination.

23. Parties are encouraged to stipulate to evidence not in dispute and to narrow the scope of contested issues to the matters actually in dispute. All stipulations will be subject to acceptance by the Administrative Law Judge and review by the Commission, which shall include the opportunity for the Commission or its staff to examine any witness on the record irrespective of the existence of a stipulation between the parties with respect to such testimony.

24. This Order is effective immediately and may be modified by the Administrative Law Judge for cause.

Dated this 16th day of March, 2004

/s/ Richard C. Luis

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RICHARD C. LUIS

Administrative Law Judge